

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 94 be amended to read as follows:

1           Page 1, after the enacting clause and before line 1 insert the  
2           following:

3           "SECTION 1. IC 34-11-2-10.5 IS ADDED TO THE  
4           INDIANA CODE AS A NEW SECTION TO READ AS  
5           FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10.5. An**  
6           **action brought by a volunteer:**

7                 **(1) firefighter; or**  
8                 **(2) member of a volunteer emergency medical services**  
9                 **association connected with a unit of government as set**  
10                **forth in IC 16-31-5-1(6);**

11           **against the volunteer's political subdivision employer for**  
12           **being disciplined for being absent from employment while**  
13           **responding to an emergency must be commenced within one**  
14           **(1) year after the date of the disciplinary action, as provided**  
15           **in IC 36-8-12-10.5 (e).**

16           SECTION 2. IC 36-8-12-2 IS AMENDED TO READ AS  
17           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this  
18           chapter:

19                **"Employee" means a person in the service of another person**  
20                **under a written or implied contract of hire or apprenticeship.**

21                **"Employer" means:**

22                   **(1) a political subdivision;**  
23                   **(2) an individual or the legal representative of a deceased**  
24                   **individual;**  
25                   **(3) a firm;**

26                   **(4) an association;**  
27                   **(5) a limited liability company;**

1           **(6) an employer that provides on-the-job training under the**  
2           **federal School to Work Opportunities Act (20 U.S.C. 6101 et**  
3           **seq.) to the extent set forth in IC 22-3-2-2.5(a); or**  
4           **(7) a corporation or its receiver or trustee;**  
5           **that uses the services of another person for pay.**

6           **"Essential employee" means an employee:**

7           **(1) who the employer has determined to be essential to the**  
8           **operation of the employer's daily enterprise; and**

9           **(2) without whom the employer is likely to suffer economic**  
10           **injury as a result of the absence of the essential employee.**

11           **"Nominal compensation" means annual compensation of not more**  
12           **than twenty thousand dollars (\$20,000).**

13           **"Public servant" has the meaning set forth in IC 35-41-1-24.**

14           **"Responsible party" has the meaning set forth in**  
15           **IC 13-11-2-191(d).**

16           **"Volunteer fire department" means a department or association**  
17           **organized for the purpose of answering fire alarms, extinguishing fires,**  
18           **and providing other emergency services, the majority of members of**  
19           **which receive no compensation or nominal compensation for their**  
20           **services.**

21           **"Volunteer firefighter" means a firefighter:**

22           **(1) who, as a result of a written application, has been elected or**  
23           **appointed to membership in a volunteer fire department;**

24           **(2) who has executed a pledge to faithfully perform, with or**  
25           **without nominal compensation, the work related duties assigned**  
26           **and orders given to the firefighter by the chief of the volunteer**  
27           **fire department or an officer of the volunteer fire department,**  
28           **including orders or duties involving education and training as**  
29           **prescribed by the volunteer fire department or the state; and**

30           **(3) whose name has been entered on a roster of volunteer**  
31           **firefighters that is kept by the volunteer fire department and that**  
32           **has been approved by the proper officers of the unit.**

33           **"Volunteer member" means a member of a volunteer**  
34           **emergency medical services association connected**  
35           **with a unit as set for in IC 16-31-5-1 (6)."**

36           Page 1, line 1, delete "SECTION 1" and insert "SECTION  
37           3".

38           Page 1, line 6, delete ";" and insert "**or volunteer**  
39           **member;**"

40           Page 1, line 8, delete "." and insert "**or volunteer**  
41           **member."**

42           Page 2, line 5, after "department" insert ", **or officer in**  
43           **charge of the volunteer emergency medical services**  
44           **association,"**

45           Page 2, after line 27, insert the following:

46           "SECTION 4. IC 36-8-12-10.7 IS ADDED TO THE INDIANA  
47           CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
48           [EFFECTIVE JULY 1, 2005]: **Sec. 10.7. (a) This section applies to an**  
49           **employee of a private employer who:**

- (1) is a volunteer firefighter or volunteer member; and
- (2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

- (1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; or
- (2) for leaving the employee's duty station to respond to a fire or emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work.

(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:

- (1) subsection (b) does not apply to the employee; and
- (2) the employee must promptly notify the:
  - (A) fire chief or other officer of the in charge of the volunteer fire department; or
  - (B) the officer in charge of the volunteer emergency medical services association;

of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member.

(d) The employer may require an employee who has been absent from employment as set forth in subsection (b) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the emergency medical services association, at the time of the absence indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence.

SECTION 5. IC 36-8-12-10.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:

- (1) section 10.5(c)(1); or
- (2) section 10.7(b)(1);

of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

- (1) vacation leave;

- 1           **(2) personal time; or**
- 2           **(3) compensatory time off."**

(Reference is to SB 94 as printed January 14, 2005.)

---

Senator LEWIS